

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

FEB 08 2007

JOHN F. CONCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

UNITED STATES OF AMERICA,
Plaintiff,

v.

JONATHAN K. ROBERSON,
Defendant.

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) Criminal Action No. 7:06-cr-98-17
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ORDER

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)
) By: Hon. James C. Turk
) Senior United States District Court Judge
)

The Defendant, Jonathan K. Roberson, was charged in a forty-eight count indictment along with twenty others associated with the Sheriff's Office of Henry County, Virginia. The Defendant has moved to have his trial severed pursuant to rule 14 of the Federal Rules of Criminal Procedure. The United States does not oppose the Defendant's request except to the extent that it requests that the Defendant be tried with Jason Allen Burton, a co-defendant.

Roberson and Burton are each charged with having unlawfully possessed the same firearm, each at a different time.¹ Because the status of the firearm itself is an element of each gun charge,² a significant amount of evidence is likely to be the same in each defendant's case.

¹ Roberson is charged in one count alleging possession of a firearm with an altered serial number; Burton is charged in three counts alleging possession of a firearm with an altered serial number, possession of an unregistered firearm, and possession of a machinegun, respectively. The government indicates that the same firearm is at issue in each of these counts.

² 18 U.S.C. § 922(k), the offense with which both defendants are charged, requires proof that, among other things, the item in question was a firearm, that the serial number was removed, obliterated or altered, and that the firearm had previously traveled in interstate commerce. See United States v. Johnson, 381 F.3d 506, 508 (5th Cir. 2004).

The Court finds that the interests of justice would be served by a joint trial of the Defendant and Burton and concludes that there is no serious risk that a joint trial would compromise the rights of the defendants or prevent the jury from making a reliable judgment about guilt or innocence.

It is therefore **ORDERED** that a severance be, and is hereby **GRANTED** to the extent that defendants Burton and J. Roberson shall be tried together with one another but separately from the other defendants with whom they were indicted.

The Clerk of Court is directed to send certified copies of this Order to all parties of record.

ENTER: This 8th day of February, 2007.



SENIOR UNITED STATES DISTRICT JUDGE